

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN**

TROY NORTON, Individually and on Behalf of All Others Similarly Situated,	)	Case No.: 19-cv-1218
	)	
Plaintiff,	)	<b>CLASS ACTION COMPLAINT</b>
	)	
v.	)	
	)	<b>Jury Trial Demanded</b>
GC SERVICES LIMITED PARTNERSHIP,	)	
	)	
Defendant.	)	

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**INTRODUCTION**

1. This class action seeks redress for collection practices that violate the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (the “FDCPA”), and the Wisconsin Consumer Act, chapter 427, Wisconsin Statutes (the “WCA”).

**JURISDICTION AND VENUE**

2. The court has jurisdiction to grant the relief sought by the Plaintiff pursuant to 15 U.S.C. § 1692k and 28 U.S.C. §§ 1331, 1337, and 1367. Venue in this District is proper in that Defendant directed its collection efforts into the District.

**PARTIES**

3. Plaintiff Troy Norton is an individual who resides in the Eastern District of Wisconsin (Milwaukee County).

4. Plaintiff is a “consumer” as defined in the FDCPA, 15 U.S.C. § 1692a(3), in that Defendant sought to collect from Plaintiff a debt allegedly incurred for personal, family, or household purposes.

5. Plaintiff is also a “customer” as defined in the Wisconsin Consumer Act, Wis. Stat. § 421.301(17), in that the alleged debt arose from one or more consumer transactions.

6. Defendant GC Services Limited Partnership (“GCS”) is a foreign limited partnership with its principal offices located at 6330 Gulfton, Houston, Texas 77081. GCS’s registered agent in Wisconsin is CT Corporation System, 301 S. Bedford Street, Suite 1, Madison, Wisconsin 53703.

7. GCS is engaged in the business of a collection agency, using the mails and telephone to collect consumer debts originally owed to others.

8. GCS is engaged in the business of collecting debts owed to others and incurred for personal, family, or household purposes.

9. GCS is a debt collector as defined in 15 U.S.C. § 1692a and Wis. Stat. § 427.103(3).

### **FACTS**

10. On or about September 2, 2018, Plaintiff received a debt collection letter from GCS regarding an alleged debt owed to “CITIBANK, N.A.” A copy of this letter is attached to this complaint as Exhibit A.

11. Upon information and belief, the alleged debt referenced in Exhibit A was incurred by use of a credit card, which was used only for personal, family, or household purposes.

12. Upon information and belief, Exhibit A is a form letter, generated by computer, and with the information specific to Plaintiff inserted by computer.

13. Upon information and belief, Exhibit A is a form debt collection letter used by GCS to attempt to collect alleged debts.

14. The reverse side of Exhibit A includes the following representation:

**Wisconsin Residents:** This collection agency is licensed by the Division of Banking in the Wisconsin Department of Financial Institutions, [www.wdfi.org](http://www.wdfi.org).

15. The above language on a collection letter is a representation that the debt collector holds a Wisconsin Collection Agency License, pursuant to Wis. Stat. § 218.04 and Wis. Admin. Code § DFI-Bkg. 74.

16. GCS does not, in fact, hold a Wisconsin Collection Agency License.

17. GCS is not licensed by the Division of Banking or any other Wisconsin governmental agency.

18. GCS was not licensed by the Division of Banking or any other Wisconsin governmental agency at the time GCS sent Exhibit A to Plaintiff.

19. GCS is not listed on the Division of Banking's website that lists all collection agencies that currently hold a Wisconsin collection agency license. [http://www.wdfi.org/fi/lfs/licensee\\_lists/Default.asp?Browse=CA](http://www.wdfi.org/fi/lfs/licensee_lists/Default.asp?Browse=CA) (visited May 7, 2019).

20. GCS is not listed as a result of a search on the Division of Banking's website of all licensed financial services in Wisconsin. <https://tinyurl.com/yd3rwxjt> (search for "GC" at [https://www.wdfi.org/fi/lfs/licensee\\_lists/](https://www.wdfi.org/fi/lfs/licensee_lists/).)

21. A representative of the Division of Banking confirmed to Plaintiff's counsel over the telephone that GCS did not hold a Wisconsin collection agency license on the date that Exhibit A was mailed, and that GCS surrendered its Wisconsin collection agency license on May 25, 2018 and did not renew it.

22. A false statement about a debt collector's licensing status is a material false statement. "It suggests that [the debt collector] has been approved by the state, thereby enhancing in the mind of the unsophisticated consumer [the debt collector's] legitimacy and power to collect the debt." *Radaj v. ARS Nat. Services, Inc.*, No. 05 C 773, 2006 U.S. Dist. LEXIS 68883 at \*10; 2006 WL 2620394 at \*3 (E.D. Wis. Sep. 12, 2006); *Seeger v. Aid Assocs.*,

2007 U.S. Dist. LEXIS 22824 at \*13, 2007 WL 1029528 (E.D. Wis. Mar. 29, 2007) (“this court believes that the false statement used by Plaza that it was licensed by the state of Wisconsin, is precisely the kind of misrepresentation that Congress sought to prohibit when it passed the FDCPA.”); *see also*, *Derosia v. Credit Corp. Sols.*, 2018 U.S. Dist. LEXIS 50016, at \*9-10 (E.D. Wis. Mar. 27, 2018) (“upon learning that Tasman is not a collection agency licensed with the DFI, such a consumer would be more likely to assume the letter is a scam and ignore it.”).

23. Plaintiff read Exhibit A.

24. Plaintiff was confused and misled by Exhibit A.

25. The unsophisticated consumer would be confused and misled by Exhibit A.

26. Plaintiff had to spend time and money to investigate Exhibit D and the possible consequences of responding to Exhibit A.

### **The FDCPA**

27. The FDCPA creates substantive rights for consumers; violations cause injury to consumers, and such injuries are concrete and particularized. *Derosia v. Credit Corp Solutions*, 2018 U.S. Dist. LEXIS 50016, at \*12 (E.D. Wis. Mar. 27, 2018) (“‘a plaintiff who receives misinformation from a debt collector has suffered the type of injury the FDCPA was intended to protect against’ and ‘satisfies the concrete injury in fact requirement of Article III.’”) (quoting *Pogorzelski v. Patenaude & Felix APC*, 2017 U.S. Dist. LEXIS 89678, 2017 WL 2539782, at \*3 (E.D. Wis. June 12, 2017)); *Spuhler v. State Collection Servs.*, No. 16-CV-1149, 2017 U.S. Dist. LEXIS 177631 (E.D. Wis. Oct. 26, 2017) (“As in *Pogorzelski*, the Spuhlers’ allegations that the debt collection letters sent by State Collection contained false representations of the character, amount, or legal status of a debt in violation of their rights under the FDCPA sufficiently pleads a concrete injury-in-fact for purposes of standing.”); *Bock v. Pressler & Pressler, LLP*, No. 11-

7593, 2017 U.S. Dist. LEXIS 81058 \*21 (D.N.J. May 25, 2017) (“through [s]ection 1692e of the FDCPA, Congress established ‘an enforceable right to truthful information concerning’ debt collection practices, a decision that ‘was undoubtedly influenced by congressional awareness that the intentional provision of misinformation’ related to such practices, ‘contribute[s] to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy,’”); *Quinn v. Specialized Loan Servicing, LLC*, No. 16 C 2021, 2016 U.S. Dist. LEXIS 107299 \*8-13 (N.D. Ill. Aug. 11, 2016) (rejecting challenge to Plaintiff’s standing based upon alleged FDCPA statutory violation); *Lane v. Bayview Loan Servicing, LLC*, No. 15 C 10446, 2016 U.S. Dist. LEXIS 89258 \*9-10 (N.D. Ill. July 11, 2016) (“When a federal statute is violated, and especially when Congress has created a cause of action for its violation, by definition Congress has created a legally protected interest that it deems important enough for a lawsuit.”); *see also Mogg v. Jacobs*, No. 15-CV-1142-JPG-DGW, 2016 U.S. Dist. LEXIS 33229, 2016 WL 1029396, at \*5 (S.D. Ill. Mar. 15, 2016) (“Congress does have the power to enact statutes creating legal rights, the invasion of which creates standing, even though no injury would exist without the statute,” (quoting *Sterk v. Redbox Automated Retail, LLC*, 770 F.3d 618, 623 (7th Cir. 2014))). For this reason, and to encourage consumers to bring FDCPA actions, Congress authorized an award of statutory damages for violations. 15 U.S.C. § 1692k(a).

28. Moreover, Congress has explicitly described the FDCPA as regulating “abusive practices” in debt collection. 15 U.S.C. §§ 1692(a) – 1692(e). Any person who receives a debt collection letter containing a violation of the FDCPA is a victim of abusive practices. *See* 15 U.S.C. §§ 1692(e) (“It is the purpose of this subchapter to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive

debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses”).

29. Misrepresentations of the character, amount or legal status of any debt, injure or risk injury to interests expressly protected by Congress in the FDCPA. *See Oloko v. Receivable Recovery Servs.*, 2019 U.S. Dist. LEXIS 140164 (N.D. Ill. Aug. 19, 2019); *Untershine v. Encore Receivable Mgmt., Inc.*, 18-cv-1484 (E.D. Wis. August 9, 2019); *Richardson v. Diversified Consultants*, No. 17-cv-4047, 2019 U.S. Dist. LEXIS 118786 \*10-11 (N.D. Ill. July 17, 2019) (“the receipt of a communication misrepresenting the character of the debt (here, the amount owed) is the kind of injury that Congress sought to prevent through the FDCPA. ‘Such an injury falls squarely within the ambit of what Congress gave consumers in the FDCPA: ‘a legally protected interest in certain information about debts,’ with ‘deprivation of information about one’s debt (in a communication directed to the plaintiff consumer) a cognizable injury.’” (internal citations omitted); *see also Pierre v. Midland Credit Mgmt., Inc.*, 2017 WL 1427070, at \*4 (N.D. Ill. Apr. 21, 2017); *Saenz v. Buckeye Check Cashing of Illinois*, 2016 WL 5080747, at \*1-2 (N.D. Ill. Sept. 20, 2016); *Bernal v. NRA Grp., LLC*, 318 F.R.D. 64, 72 (N.D. Ill. 2016) (holding that Plaintiff had standing to challenge misleading communication sent to him because the communication violated his “right to be free from such misleading communications”). Such misrepresentations may cause consumers to make incorrect decisions about their finances or make payments to incorrect parties.

30. 15 U.S.C. § 1692e generally prohibits “any false, deceptive, or misleading representation or means in connection with the collection of any debt.”

31. 15 U.S.C. § 1692e(1) specifically prohibits the false representation that “the debt collector is vouched for, bonded by, or affiliated with the United States or any State, including the use of any badge, uniform, or facsimile thereof.”

32. 15 U.S.C. § 1692e(9) specifically prohibits “the use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any State, or which creates a false impression as to its source, authorization, or approval.”

### *The WCA*

33. The Wisconsin Consumer Act (“WCA”) was enacted to protect consumers against unfair, deceptive, and unconscionable business practices and to encourage development of fair and economically sound practices in consumer transactions. Wis. Stat. § 421.102(2).

34. The Wisconsin Supreme Court has favorably cited authority finding that the WCA “goes further to protect consumer interests than any other such legislation in the country,” and is “probably the most sweeping consumer credit legislation yet enacted in any state.” *Kett v. Community Credit Plan, Inc.*, 228 Wis. 2d 1, 18 n.15, 596 N.W.2d 786 (1999) (citations omitted).

35. To further these goals, the Act’s protections must be “liberally construed and applied.” Wis. Stat. § 421.102(1); *see also* § 425.301.

36. “The basic purpose of the remedies set forth in Chapter 425, Stats., is to induce compliance with the WCA and thereby promote its underlying objectives.” *First Wisconsin Nat’l Bank v. Nicolaou*, 113 Wis. 2d 524, 533, 335 N.W.2d 390 (1983). Thus, private actions under the WCA are designed to both benefit consumers whose rights have been violated and also

competitors of the violators, whose competitive advantage should not be diminished because of their compliance with the law.

37. To carry out this intent, the WCA provides Wisconsin consumers with an array of protections and legal remedies. The Act contains significant and sweeping restrictions on the activities of those attempting to collect debts. *See* Wis. Stats. § 427.104.

38. The Act limits the amounts and types of additional fees that may be charged to consumers in conjunction with transactions. Wis. Stats. § 422.202(1). The Act also provides injured consumers with causes of action for class-wide statutory and actual damages and injunctive remedies against defendants on behalf of all customers who suffer similar injuries. *See* Wis. Stats. §§ 426.110(1); § 426.110(4)(e). Finally, “a customer may not waive or agree to forego rights or benefits under [the Act].” Wis. Stat. § 421.106(1).

39. Consumers’ WCA claims under Wis. Stat. § 427.104(1) are analyzed using the same methods as claims under the FDCPA. Indeed, the WCA itself requires that the court analyze the WCA “in accordance with the policies underlying a federal consumer credit protection act,” including the FDCPA. Wis. Stat. § 421.102(1).

40. Further, the Wisconsin Supreme Court has held that WCA claims relating to debt collection are to be analyzed under the “unsophisticated consumer” standard. *Brunton v. Nuvel Credit Corp.*, 785 N.W.2d 302, 314-15. In *Brunton*, the Wisconsin Supreme Court explicitly adopted and followed the “unsophisticated consumer” standard, citing and discussing *Gammon v. GC Servs. Ltd. P’ship*, 27 F.3d 1254, 1257 (7th Cir. 1994). *Id.*

41. Wis. Stat. § 427.104(1)(k) states that a debt collector may not “use a communication which simulates legal or judicial process or which gives the appearance of being



authorized, issued or approved by a government, government agency or attorney-at-law when it is not.”

### **COUNT I – FDCPA**

42. Plaintiff incorporates by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

43. Exhibit A falsely states that: “This collection agency is licensed by the Division of Banking” for the State of Wisconsin.

44. GCS did not hold a Wisconsin Collection Agency License when GCS sent Exhibit A to Plaintiff.

45. GCS’s Wisconsin Collection Agency License terminated on May 25, 2018.

46. GCS did not hold a Wisconsin Collection Agency License when GCS sent Exhibit A to any class member.

47. Defendant violated 15 U.S.C. §§ 1692e, 1692e(1) and 1692e(9).

### **COUNT II – WCA**

48. Plaintiff incorporates by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

49. Exhibit A falsely states that GCS was a collection agency that was authorized or approved by a government agency.

50. Defendant violated Wis. Stat. § 427.104(1)(k).

### **CLASS ALLEGATIONS**

51. Plaintiff brings this action on behalf of a Class, consisting of (a) all natural persons in the State of Wisconsin (b) who were sent a collection letter by GCS, (c) stating that GCS is licensed by the Division of Banking in Wisconsin, (d) seeking to collect a debt for personal,

family or household purposes, (e) between August 21, 2018 and August 21, 2019, (f) that was not returned by the postal service.

52. The Class is so numerous that joinder is impracticable. Upon information and belief, there are more than 50 members of the Class.

53. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members. The predominant common question is whether Exhibit A violates the FDCPA and/or the WCA.

54. Plaintiff's claims are typical of the claims of the Class members. All are based on the same factual and legal theories.

55. Plaintiff will fairly and adequately represent the interests of the Class members. Plaintiff has retained counsel experienced in consumer credit and debt collection abuse cases.

56. A class action is superior to other alternative methods of adjudicating this dispute. Individual cases are not economically feasible.

#### **JURY DEMAND**

57. Plaintiff hereby demands a trial by jury.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests that the Court enter judgment in favor of Plaintiff and the Class and against Defendant for:

- (a) actual damages;
- (b) statutory damages;
- (c) attorneys' fees, litigation expenses and costs of suit; and
- (d) such other or further relief as the Court deems proper.

Dated: August 21, 2019

**ADEMI & O'REILLY, LLP**

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